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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,533	07/24/2002	Luis Felipe Guglielmucci		8347
26058	7590	10/20/2006		
MICHAEL C. CESARANO SUNTRUST INTERNATIONAL CENTER, 28TH FLOOR 1 S.E. 3RD AVENUE MIAMI, FL 33131-1714			EXAMINER	LANEAU, RONALD
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/064,533	GUGLIELMUCCI, LUIS FELIPE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ronald Laneau	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2006.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 3-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)                  4)  Interview Summary (PTO-413)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                  Paper No(s)/Mail Date. \_\_\_\_\_.  
 3)  Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.                  5)  Notice of Informal Patent Application  
     6)  Other: \_\_\_\_\_.

***Response to Amendment***

1. The amendment filed on 12/7/05 has been entered. New claims 4-15 are added and claims 3-15 are now pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moorer (US 6,904,152 B1).

As per claims 3-15, a business method for the sale of customized multichannel recording comprising: accepting an order from a customer to manufacture a customized multiple channel recording; obtaining a plurality of parameters related to a sound reproduction system used by said customer and an acoustic environment within which said sound reproduction system will be used, said plurality of parameters comprising the number of channels in said customer's sound reproduction system, the type of speaker attached to each said channel, the sound reproduction system characteristics of said sound reproduction system, characteristics of said acoustic environment characteristics within which said sound reproduction system will be used, said customer's preferences for the use of said customized multiple channel recording and for the content to be included on said recording and optional content available for the recording (see

abstract, col. 4, lines 30-65); retrieving a preexisting multiple synchronized channel master recording containing said preferred content from a source; creating said customized multiple channel recording having at least one channel corresponding to each channel of said customer's sound reproduction system (col. 5, line 40 to col. 6, line 63) , each said at least one channel being created by mixing and combining individual channels from said preexisting channel master recording, said mixing and combining including the application of audio techniques comprising amplification, attenuation, phase correction, equalization, and filtering to fit said preferences defined by said customer; electronically assemble said customized multiple channel recording with other multimedia data related to said content or customer preferences; deliver said customized multiple channel recording to said customer (see fig. 3).

Moorer does not explicitly disclose a multichannel record by mixing and combining the source channels applying audio techniques including but not limited to amplification, attenuation, phase correction, equalization, and filtering and also determining a method of payment by said customer for the customized multiple channel recording but it is obvious that all audio techniques and sound reproduction would deal with some kind of attenuation, phase correction, equalization and filtering in order to achieve the maximum clarity in the delivery of a sound to a customer also improve considerably the sound quality and the sound image perceived by those who are sitting in the room where the sound is being reproduced.

#### ***Response to Arguments***

4. Applicant's arguments filed on 7/27/06 have been fully considered but they are not persuasive.

Applicant argues that Moorer does not disclose “a business system by which a plurality of customers may have the physical parameters of their sound systems and their personal acoustic tastes stored in a database, where they may later be recalled and superimposed upon any original master recording to create customized acoustic environments in accordance with each customer’s preferences and tastes.” In response to Applicant’s arguments, the Examiner believes that the system of Moorer can actually create acoustic environment based on customer’s preferences as claimed because Moorer discloses a multi-channel surround sound mastering and reproduction techniques. The techniques of making a recording of or transmitting a sound field from either multiple or directional sound signals that reproduce a sound field through multiple discrete loud speakers. The parameters involved in Moorer’s system are set when a user is trying to reproduce a certain sound and therefore is adjusting the gain, the attenuation, the phase correction, etc. Claims 3-15 are finally rejected.

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3714

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on 7:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Ronald Laneau*

Ronald Laneau  
Primary Examiner  
Art Unit 3714

10/13/06